

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CHARLES R. BURLEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 06-701-SLR
	)	Jury Trial Demanded
RAFIEL WILLIAMS and WILLIAM JOYCE,	)	
	)	
Defendants.	)	

**DEFENDANT RAPHAEL WILLIAMS'  
ANSWER TO COMPLAINT**

Defendant Raphael Williams, by and through his undersigned attorney, hereby answers the Complaint filed on November 20, 2006.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES**

1. Denied that Plaintiff has exhausted available administrative remedies regarding the present claims. *See Exhibit 1, Affidavit of Sgt. Mary Moody.*
2. Denied that the Delaware Department of Corrections ("DOC") did not respond and/or failed to follow up on Plaintiff's medical grievances. All grievances submitted by the Plaintiff at the time he filed the instant Complaint have been resolved through the inmate grievance procedure, and are now moot. *Id.*

**CLAIM ONE**

3. Denied that Plaintiff communicated his medical problems to Defendant in early September 2006.
4. Denied that communication with the Warden of the DOC will trump an inmate's

responsibility to pursue grievances through the inmate grievance procedure established by the DOC.

5. Denied that Plaintiff filed “at least 10 grievances” prior to filing his complaint on November 20, 2006. *See Exhibit 1, Affidavit of Sgt. Mary Moody.*
6. Denied that Plaintiff received different treatment because he filed inmate grievances.
7. Defendant Williams is without knowledge of the medical conditions or treatment of Plaintiff. Moreover, the *respondeat superior* claims against Defendant Williams have been dismissed. D.I.8.
8. Defendant Williams is not authorized to discuss medical matters with inmates once they are referred to Correctional Medical Services. Moreover, the *respondeat superior* claims against Defendant Williams have been dismissed. D.I.8.
9. Defendant Williams is without knowledge of the actions of Correctional Medical Services, or any other claims regarding medical treatment as described in Claim One.

### **CLAIM TWO**

10. Defendant Williams is without knowledge of the actions of Dr. Connolly/Conlin, Correctional Medical Services, or any other claims regarding medical treatment as described in Claim Two. Moreover, Dr. Connolly/Conlin has been terminated as a Defendant, and the *respondeat superior* claims against Defendant Williams have been dismissed. D.I.8.

### **CLAIM THREE**

11. Defendant Williams is without knowledge of the actions of Defendant William Joyce, Correctional Medical Services, or any other claims regarding medical treatment as described in Claim Three. Moreover, the *respondeat superior* claims against Defendant

Williams have been dismissed. D.I.8.

**CLAIM FOUR**

12. Defendant Williams is without knowledge of the actions of Dr. Hershey, Correctional Medical Services, or any other claims regarding medical treatment as described in Claim Four. Moreover, Dr. Hershey has been terminated as a Defendant and the *respondeat superior* claims against Defendant Williams have been dismissed. D.I.8.

**RELIEF**

13. It is specifically denied that Plaintiff is entitled to compensatory, punitive or any monetary damages.

14. It is specifically denied that Plaintiff is entitled to injunctive, declaratory or any other relief.

**AFFIRMATIVE DEFENSES**

15. Plaintiff has failed to state a claim upon which relief can be granted.

16. Plaintiff has failed to exhaust his administrative remedies. *See Exhibit 1, Affidavit of Sgt. Mary Moody.* Plaintiff is barred from pursuing this action because he failed to carry the grievance process to its administrative conclusion prior to filing this complaint. 42 U.S.C.1997e(a).

17. Plaintiff has failed to effectuate service as required by Fed. R. Civ. P. 4(m).

18. This action and all claims are barred by the applicable statute of limitations.

19. Defendant Raphael Williams is immune from liability under the Eleventh Amendment.

20. Defendant Raphael Williams is entitled to qualified immunity.

21. As to any claims under state law, Defendant Raphael Williams is entitled to immunity under the State Tort Claims Act, 10 *Del. C.* §4001, *et. seq.*

22. As to any claims under state law, Defendant Raphael Williams is entitled to sovereign immunity.

23. Defendant Raphael Williams cannot be held liable in the absence of personal involvement for alleged constitutional deprivations.

24. To the extent the plaintiff seeks to hold Defendant Raphael Williams liable based on supervisory responsibilities, the doctrine of *respondeat superior* is not a basis for liability in an action under 42 U.S.C. §1983.

25. Negligence is not a cause of action under 42 U.S.C. §1983.

26. Defendant Raphael Williams in his official capacities is not liable for alleged violations of plaintiff's constitutional rights as he is not a "person" pursuant to 42 U.S.C. §1983.

WHEREFORE, Defendant Raphael Williams respectfully requests that judgment be entered in his favor and against Plaintiff as to all claims, and that attorney fees be awarded to him.

STATE OF DELAWARE  
DEPARTMENT OF JUSTICE

/s/ Catherine Damavandi  
Catherine Damavandi (ID # 3823)  
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Attorney for Defendant Raphael Williams

Date: December 14, 2007

***CERTIFICATE OF MAILING AND/OR DELIVERY***

The undersigned certifies that on December 14, 2007, she caused the attached *Answer to Complaint* to be delivered to the following persons in the form and manner indicated:

**NAME AND ADDRESS OF RECIPIENT(S):**

Charles R. Burley  
SBI#141273  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

**MANNER OF DELIVERY:**

- \_\_\_\_\_ One true copy by facsimile transmission to each recipient
- X   Two true copies by first class mail, postage prepaid, to each recipient
- \_\_\_\_\_ Two true copies by Federal Express
- \_\_\_\_\_ Two true copies by hand delivery to each recipient

STATE OF DELAWARE  
DEPARTMENT OF JUSTICE

/s/ Catherine Damavandi  
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